

The Honorable Samuel J. Steiner

Diana K. Carey
Michael M. Feinberg
Karr Tuttle Campbell
1201 Third Avenue, Suite 2900
Seattle, WA 98101
(206) 223-1313
Attorneys for John P. Rader, Trustee

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re)
FEDERAL WAY JOINT VENTURE,) Case No. 02-20074
Debtor.)
_____) Adversary No.
JOHN P. RADER, Trustee,)
Plaintiff,) COMPLAINT TO SUBORDINATE AND
v.) DISALLOW CLAIMS
DANIEL A. CASEY, a single person;)
QUADRANT CAPITAL INVESTMENTS,)
INC., an Alaska Corporation; and South 320th)
Way Partnership, a Washington general)
partnership,)
Defendants.)
_____)

Plaintiff John P. Rader, in his capacity as Trustee of the bankruptcy estate of Federal
Way Joint Venture ("FWJV" or "Debtor"), alleges as follows:

**COMPLAINT TO SUBORDINATE AND DISALLOW
CLAIMS - 1**

#512336 v1 / 32946-003

Law Offices
KARR TUTTLE CAMPBELL
A Professional Service Corporation

1201 Third Avenue, Suite 2900, Seattle, Washington 98101-3028
Telephone (206) 223-1313, Facsimile (206) 682-7100

1 **JURISDICTION AND VENUE**

2 1. On August 21, 2002 (the "Petition Date"), an involuntary petition (the
3 "Bankruptcy Case") was filed seeking an order of relief against FWJV adjudicating it to be a
4 debtor under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.* An
5 Order for Relief was entered September 19, 2002.

7 2. This is an action to subordinate claims under 11 U.S.C. § 510 and/or to
8 disallow claims under 11 U.S.C. § 502. The Court has jurisdiction to adjudicate this
9 proceeding under 28 U.S.C. §§ 157(b) and 1334, and G.R. 7 (W.D. Wash.). This is a matter
10 arising in a proceeding under Title 11 of the United States Code and is a core proceeding
11 under 28 U.S.C. § 157(b)(2).

13 3. Venue in this court is proper pursuant to 28 U.S.C. § 1409.

14 **PARTIES**

15 4. Plaintiff John P. Rader is the duly appointed chapter 11 trustee of the Debtor
16 FWJV ("Trustee").

17 5. Defendant Daniel A. Casey ("Casey") is a resident of the State of Alaska and
18 the majority shareholder and officer of QCI.

19 6. Defendant Quadrant Capital Investments, Inc. ("QCI") is an Alaska
20 corporation, which is registered to and which does business within the Western District of
21 Washington.

22 7. Defendant South 320th Way Partnership ("South 320th") is a Washington
23 general partnership.
24
25
26
27
28

GENERAL ALLEGATIONS

8. The Debtor FWJV is a Washington general partnership. FWJV has two partners, South 320th and FIR Associates, a Washington general partnership. Pursuant to the FWJV Joint Venture Agreement and the amendments thereto, South 320th was the managing general partner of FWJV. QCI in turn is the managing partner of South 320th. The effect of this arrangement was that Casey, who controls QCI, effectively controlled both South 320th and the FWJV. Indeed, in the claims described, below Casey acknowledged that QCI is his alter ego.

9. Casey, QCI and South 320th are all insiders within the meaning of 11 U.S.C. § 101(31).

10. QCI and/or Casey have filed the following proofs of claim:

Claim No.	Claimant	Amount	Consideration
15	QCI, Inc. aka Casey	\$1,059,000	Funding payoff of venders re hotel
16	QCI, Inc. aka Casey	\$ 432,000	Management Fees

11. South 320th has filed the following proof of claim:

Claim No.	Claimant	Amount	Consideration
20	South 320th	\$ 400,000	Advance of operating funds

12. Casey individually has filed the following proof of claim:

Claim No.	Claimant	Amount	Consideration
21	Daniel A. Casey	\$ 16,721	Advance of funds to vendors

13. Casey failed to file any response to the involuntary petition and did not cause anyone to appear on behalf of the Debtor. Based on the Debtor's failures to file bankruptcy

1 schedules, on October 7, 2004, the Court signed an Order to Show Cause for Failure to File
2 Schedules. Further, Casey, on behalf of the Debtor, failed to respond to Washington State
3 Bank's Motion for Relief from Stay to foreclose on Lot 6.
4

5 14. On November 22, 2004, the Trustee sought and obtained an order pursuant to
6 BR 2004 directing Casey to appear for an examination regarding the financial affairs of the
7 Debtor, its affiliates and subsidiaries and authorizing the issuance of subpoena directing Casey
8 to produce certain documents related to these entities. After Casey failed to appear for the
9 examination and produce the requested documents in response to the order and the subpoena,
10 the court on February 14, 2003, issued an order to show cause why Casey should not be held
11 in contempt for failure to abide by court orders. On March 7, 2003, the court issued an Order
12 Holding Daniel A. Casey in Contempt for Failure to Abide by Court Orders. Mr. Casey
13 remains in contempt and has also failed to pay the \$1,000 imposed by the court as attorneys'
14 fees.
15
16

17 15. Throughout this case the Trustee has been handicapped by his lack of access to
18 relevant financial information regarding the Debtor and its affiliates and subsidiaries. Based
19 on the information that the Trustee has reviewed, it appears that QCI, South 320th and Casey,
20 in violation of the FWJV Joint Venture Agreement, encumbered FWJV's property without
21 authority and used the proceeds for their own purposes, took and withdrew management fees
22 and other monies to which they were not entitled to under the FWJV Joint Venture Agreement
23 and diverted funds from FWJV and its affiliates to themselves. The trustee believes and
24 therefore alleges that the monies QCI, South 320th and Casey took, withdrew or transferred to
25 themselves exceeded the amount of the claims they assert.
26
27
28

1 16. The management fees, loan proceeds and other funds that QCI, South 320th
2 and Casey diverted to themselves were made for the purpose of defrauding FWJV, its
3 affiliates, subsidiaries, creditors and equity holders and each of these transfers were made
4 without FWJV receiving reasonably equivalent value.
5

6 17. QCI, South 320th and Casey in their capacities as managing members of the
7 various entities had a fiduciary obligation to account to FWJV and its equity holders for any
8 monies received or disbursed by FWJV and its subsidiaries, which they have utterly and
9 completely failed to do.
10

11 18. QCI, South 320th and Casey used FWJV and its affiliates and subsidiaries as
12 their alter egos to further their own interests to the prejudice of FWJV, its affiliates,
13 subsidiaries, creditors and other equity holders.
14

15 19. Casey also wrongfully interfered with the authority of both Trustee Rader and
16 Trustee James Hunter and later Receiver Web Properties in their administration of the FWJV
17 estate and that of its debtor affiliate, Gateway Center Retail L.L.C. Despite having been
18 advised that he was no longer in control of the properties, he contacted tenants, attempted to
19 conduct leasing negotiations and otherwise interfered with the efforts of the Trustees.
20

21 **FIRST CLAIM FOR RELIEF**
22 **Equitable Subordination**

23 20. QCI, South 320th and Casey breached the fiduciary duties they owed to FWJV,
24 its affiliates, subsidiaries, creditors and equity holders and as a result of their self-dealing and
25 unauthorized acts engaged in inequitable conduct which has resulted in injury to FWJV, its
26 affiliates, subsidiaries, creditors and equity holders.
27
28

1 21. Equitable subordination of the claims of QCI, South 320th and Casey is not
2 inconsistent with the provisions of the Bankruptcy Act and the court should use its equitable
3 powers under 11 U.S.C. § 510(c) to subordinate the claims of QCI, South 320th and Casey to
4 the claims of all creditors of the Debtor, its subsidiaries and affiliates and to the claims of its
5 other equity holders.
6

7 **SECOND CLAIM FOR RELIEF**
8 **Disallowance of Claim**

9 22. Plaintiff realleges paragraphs 1 through 21.

10 23. There are no records that support the claims of QCI, South 320th and Casey;
11 without the records (which Casey has refused to produce), there is no way to verify any of the
12 claims.
13

14 24. The Claims of QCI, South 320th and Casey are subject to disallowance under
15 11 U.S.C. § 502(d) based on the failure of QCI, South 320th and Casey to turnover funds,
16 records and other property of the estate as required under 11 U.S.C. § 542, and their receipt of
17 transfers that are avoidable under sections 11 U.S.C. § 544(b) and chapter 19.40 RCW, 11
18 U.S.C. §§ 547, 548, and 549.
19

20 25. The Claims of QCI, South 320th and Casey should be disallowed in their
21 entirety.
22

23 **REQUEST FOR RELIEF**

24 Wherefore the Trustee requests the Court grant the following relief:

25 1. For an order equitably subordinating Claim Nos. 15 and 16 filed by QCI, Inc.
26 aka Casey; Claim No. 20 filed by South 320th; and Claim No. 21 filed by Daniel A. Casey to
27
28

1 the claims of all creditors of the Debtor, its subsidiaries and affiliates and to the claims of its
2 other equity holders.

3
4 2. For an order disallowing Claim Nos. 15 and 16 filed by QCI, Inc. aka Casey;
5 Claim No. 20 filed by South 320th; and Claim No. 21 filed by Daniel A. Casey.

6 3. For an award of the Trustee's reasonable attorneys' fees.

7 4. For such further and additional relief as the court considers appropriate.

8 DATED this 22nd day of September, 2004.
9

10 /s/ Michael M. Feinberg

11
12 Diana K Carey, WSBA #16239
13 Michael M. Feinberg, WSBA #11811
14 Of Karr Tuttle Campbell
15 Attorneys for John P. Rader, Trustee for
16 Federal Way Joint Venture
17
18
19
20
21
22
23
24
25
26
27
28